

THE TEJON INDIAN TRIBE

HALF-BLOOD COMMUNITY ORGANIZATION PURSUANT TO THE INDIAN REORGANIZATION ACT:

AUTHORITIES AND OTHER RELEVANT MATERIALS

January 29, 2009

As discussed in the meeting last week between Assistant Secretary Skibine and the Tejon Indian Tribe (Tribe), one of the possible approaches to recognition for the Tribe is through its organization as a "half-blood community" under the Indian Reorganization Act (IRA). The half-blood organization process allows a group of Indians of one-half or more degree of Indian blood to acquire trust land (*see* 25 U.S.C. §§ 465, 467, 479, and 25 C.F.R. Part 151) and adopt an IRA constitution (*see* 25 U.S.C. § 476 and 25 C.F.R. Part 81).

We are providing here a package of information relevant to the half blood community process including:

- A list of the relevant statutory and administrative authorities (pp. 2-3) and full copies of those authorities in the attached Appendix.
- A chart which outlines the steps of the half blood community reorganization process (p. 4).
- A list of tribes acknowledged through the statutory half-blood community process (including the Jamul Indian Village, which utilized the process even after the Department's adoption of the Part 83 administrative process) (p. 5).

If you have any questions, please do not hesitate to contact Arlinda Locklear at 202-237-0993 or Heather Sibbison at 202-457-6148.

HALF BLOOD COMMUNITY ORGANIZATION AUTHORITIES

Tab 1: Statutory Authority/Indian Reorganization Act, 25 U.S.C. §§ 465, 467, 479, and 467

- 25 U.S.C. § 479 provides that the Act applies to all persons of one-half or more Indian blood ... and defines Indian tribe to include Indians residing on one reservation:

“The term ‘*Indian*’ as used in this Act shall include ... all persons of one-half or more Indian blood.”

“The term ‘*tribe*’ wherever used in this Act shall be construed to refer to ... the *Indians residing* on one reservation.”

- 25 U.S.C. § 465 authorizes the Secretary to take land into trust for Indians eligible under the Act:

“The Secretary of the Interior is authorized ... to acquire ... any interest in lands ... for the purpose of providing land for *Indians*.”

- 25 U.S.C. § 467 authorizes Secretary to declare lands acquired in trust for Indians under the act to be a reservation:

“The Secretary of the Interior is hereby authorized to proclaim new *reservations* on lands acquired pursuant to any authority conferred by this Act....”

- 25 U.S.C. § 476 authorizes Indian tribes on a reservation to organize under a constitution:

“Any *Indian tribe* shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws”

Tab 2: Regulatory Authorities and Other Administrative Material

- A. Solicitor’s Opinion, January 29, 1941, I Sol. Op. 1026, St. Croix Indians – Organization Under §16 of Indian Reorganization Act (25 U.S.C. §476): Interprets the above-cited statutory provisions collectively to allow certified half-blood Indians who reside on a declared reservation to become recognized by adopting an IRA constitution.
- B. Solicitor’s Opinion, August 31, 1936, I Sol. Op. 668, Purchases under Wheeler-Howard Act: provides model language for trust deed when land acquired for group of half-bloods.

- C. Excerpts from United States Department of Justice Brief to the Supreme Court in *Rosales v. United States*, No. 03-895 (Feb. 2004): Describing recognition of the Jamul Indian Village under the statutory half-blood reorganization process.
- D. Excerpts from Cohen's Handbook of Federal Indian Law (2005 ed.), § 3.02[6][d] at 151-52 and n.105: Setting forth the half-blood reorganization process under the Indian Reorganization Act.
- E. *Rosales v. Sacramento Area Dir.*, 32 I.B.I.A., 158 (1998), upholding authority to reorganize and recognize Jamul Indian Village as a half-blood community. Department of the Interior in modern times has confirmed availability of half-blood reorganization process.
- F. 25 CFR Part 81: governs Secretarial approval of tribal constitutions, including approval of constitutions for groups of Indians of one-half or more degree Indian blood.
- G. 25 CFR Part 151: governs Secretarial acquisition of trust land for Indians, including individuals of one-half or more Indian blood of a tribe.

STEPS FOR ORGANIZATION OF HALF-BLOOD INDIANS UNDER THE IRA

STEP 1

The Department of the Interior confirms that the Tejon tribal members seeking to organize are one-half or more Indian blood (complete – 34 of 211 members qualify as one-half or more Indian blood).

STEP 2

Tejon members of one-half or more Indian blood ("half-blood") submit a fee-to-trust application pursuant to 25 U.S.C. § 465 and request that the parcel be declared a reservation for the half-blood Indians pursuant to 25 U.S.C. § 467.

STEP 4

After land is acquired in trust, half-blood Tejon members submit a petition to the Department requesting that the Secretary call an election to adopt a constitution and by-laws. The Petition must be signed by 60% of the adult half-blood Indians. 25 C.F.R. § 81.5(b).

STEP 3

The Department of the Interior acquires land in trust for the half-blood Tejon members pursuant to 25 U.S.C. § 465 and may declare that parcel to be a reservation pursuant to § 467.

STEP 5

Interior provides at least 30 days (but not more than 60 days) prior notice of the election. 25 C.F.R. § 81.14. Authorization from Interior to hold an election to adopt a constitution must be acted on within 90 days from the date of issuance from the Secretary. 25 C.F.R. § 81.5(f).

STEP 6

One BIA official and two tribal representatives must form an election board to conduct the election. 25 C.F.R. § 81.8.

STEP 8

Election held; Election Board certifies results; BIA official takes action to approve or disapprove adoption of constitution; approval is forwarded to the Assistant Secretary; Assistant Secretary approves constitution. See 25 C.F.R. §§ 81.15; 81.23; 81.24.

STEP 7

Election Board sends voter registration request to all eligible voters. Adult half-blood members for whom the land has been acquired in trust shall be entitled to vote in the election. 25 C.F.R. §§ 81.11; 81.6(b).

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT'S HALF-BLOOD COMMUNITY REORGANIZATION PROCESS

The Indian Reorganization Act of 1934 (the IRA) sets out a process by which groups of Indians who possess one-half or more Indian blood can organize themselves into a recognized tribal community. This recognition approach is grounded in statutory law (the IRA), there are existing regulations which govern the process, and there is solid precedent for use of the process. Since the IRA was enacted, the half-blood reorganization process has been used to recognize the following tribes:¹

- The Jamul Indian Village of California
- The Duckwater Shoshone Tribe of the Duckwater Reservation
- The St. Croix Chippewa Indians of Wisconsin
- The Quartz Valley Indian Community of the Quartz Valley Reservation
- Yomba Shoshone Indians
- Sokaogan Chippewa Indians
- The Mississippi Band of Choctaw Indians²

¹ Cohen's Handbook of Federal Indian Law (2005 ed.) confirms the statutory basis for the half-blood community reorganization process and identifies many of the tribes listed above as having been recognized pursuant to this process. See § 3.02[6][d] at 152, n.105.

² See *United States v. John*, 437 U.S. 634 (1978) describing the Tribe's organization under the IRA. Consistent with this process, the Tribe's first constitution limited membership to Choctaw Indians of one-half or more Indian blood. Constitution and By-Laws of the Mississippi Band of Choctaw Indians (Ratified April 20, 1945).